IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3839 OF 2006
IN
FIRST APPEAL NO.2151 OF 2007

Gajanan Bhausaheb Bhilare ..Applicant

V/s.

The Manager, Oriental Insurance Co. Ltd. and ors. ..Respondents

Mr.Jaydeep Deo i/b. Suhasini Mutalik for the applicant

CORAM : A.S.OKA, J.

DATE : JANUARY 19, 2007

P.C.

1. Heard Advocate for the Applicant. The Applicant is the owner of the vehicle involved in the accident. The challenge in the First Appeal is to the Judgment and Award passed by the learned Member of the Motor Accident Claims Tribunal in an Application under Section 166 of the Motor Vehicle Act, 1988. The insurer of the vehicle has been exonerated on the ground that there is a breach of terms and conditions of the Policy.

2. The impugned Judgment shows that age of the deceased was 24 years and mulitiplier of only 13 has been applied. Prima facie, it is very difficult to find a fault with the quantum of the compensation awarded by the Tribunal. Even if the Applicant succeeds in the Appeal, the Insurance Company will be held liable to pay the compensation and therefore, in that event, the Applicant can always recover the amount of compensation with appropriate interest from the Insurance Company. Hence, no case is made out for grant of stay. Application is rejected.

3. However, time of ten weeks is granted to the Applicant to deposit the compensation amount with the Tribunal. For a period of ten weeks, no coercive steps shall be taken against the Applicant. It is made clear that the withdrawal of the compensation amount by the claimant will be subject to the final outcome of the Appeal. The Registry will transfer the sum of Rs.25,000/- deposited by the Applicant in this Court to the concerned Tribunal. While depositing the

compensation amount, the Applicant will be entitled to adjust said amount of Rs.25,000/- towards the compensation.

(A.S.OKA, J.)